

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0834-01
Bill No.: HB 535
Subject: Children and Minors; Crimes and Punishment
Type: Original
Date: March 1, 2013

Bill Summary: This proposal changes the laws regarding sexual offenses against a child.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue*	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

* Long term impact of over \$100,000 of additional cost to the Department of Corrections is expected, beyond the years reflected in this fiscal note.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Corrections (DOC)** state Statutory Rape I and Statutory Sodomy I would become dangerous felonies, by legal definition, due to passage of this bill which would require offenders serving 85% of the sentence prior to eligibility for parole. This effect would take place after current sentences are served or over 12 years out and the additional time served would calculate to 93 offenders per year.

Statutory Rape I and Statutory Sodomy I are added to the offenses of forcible rape and forcible sodomy, due to passage of this bill which and would require sentences to be served consecutive to other sentences. This effect would take place after current sentences are served or over 12 years out and the additional time served is an approximate increase of 7.9 years. This calculates to 864 offenders per year.

This proposal also increases penalties for several sex crimes when the offender had a prior conviction of incest with the victim. DOC receives few convictions for incest. Currently, the DOC cannot predict the number of new commitments which may result from the enhancement of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in direct offender cost either through incarceration (FY12 average of \$17.059 per offender, per day, or an annual cost of \$6,227 per inmate) or through supervision provided by the Board of Probation and Parole (FY12 average of \$4.960 per offender, per day, or an annual cost of \$1,810 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seventeen (17) persons would have to be incarcerated per each fiscal year to exceed \$100,000 annually. Due to the narrow scope of the enhancements of these crimes, it is assumed the impact would be less than \$100,000 per year for the DOC. Long term effect due to passage of this bill is expected to exceed \$100,000 per each fiscal year but the impact is beyond the scope of this fiscal note.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons faced with the enhanced penalties for statutory rape in the first degree or for any of the listed offenses if the Public Defender has pled guilty or has been convicted of the crime of incest against the victim.

RS:LR:OD

ASSUMPTION (continued)

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Office of the State Courts Administrator, Office of Prosecution Services,** and the **Department of Public Safety - Missouri Highway Patrol** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
GENERAL REVENUE			
<u>Costs - Department of Corrections</u>			
Increased costs from incarceration / probation *	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)

* Long term impact of over \$100,000 of additional cost to the Department of Corrections is expected, beyond the years reflected in this fiscal note.

<u>FISCAL IMPACT - Local Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

RS:LR:OD

FISCAL DESCRIPTION

This bill changes the laws regarding certain sexual offenses. In its main provisions, the bill:

- (1) Repeals the requirement that the victim must be a child less than 12 years of age at the time of the commission of statutory rape in the first degree or statutory sodomy in the first degree in order for those crimes to be classified as dangerous felonies;
- (2) Requires sentences for statutory rape in the first degree or an attempt to commit statutory rape in the first degree to run consecutively to other specified offenses;
- (3) Specifies the authorized penalty for forcible rape or an attempt to commit forcible rape is life imprisonment or a term of at least 15 years imprisonment if the victim is a child and the defendant has pled guilty to or has been convicted of the crime of incest against the victim;
- (4) Specifies the authorized penalty for statutory rape in the first degree or an attempt to commit statutory rape in the first degree is life imprisonment or a term of at least 10 years imprisonment if the defendant has pled guilty to or been convicted of the crime of incest against the victim;
- (5) Specifies that statutory rape in the second degree is a class B felony if the defendant has pled guilty to or been convicted of the crime of incest against the victim;
- (6) Specifies the authorized penalty for forcible sodomy or an attempt to commit forcible sodomy is life imprisonment or a term of at least 10 years imprisonment if the victim is a child and the defendant has pled guilty to or been convicted of the crime of incest against the victim;
- (7) Specifies the authorized penalty for statutory sodomy in the first degree or an attempt to commit statutory sodomy in the first degree is life imprisonment or a term of at least 10 years imprisonment if the defendant has pled guilty to or been convicted of incest against the victim;
- (8) Specifies that statutory sodomy in the second degree is a class B felony if the defendant has pled guilty to or been convicted of the crime of incest against the victim;
- (9) Specifies that child molestation in the first degree is a class A felony if the defendant has pled guilty to or been convicted of the crime of incest against the victim;
- (10) Specifies that child molestation in the second degree is a class D felony if the defendant has pled guilty to or been convicted of the crime of incest against the victim;

FISCAL DESCRIPTION (continued)

(11) Specifies that sexual misconduct involving a child or attempted sexual misconduct involving a child is a class C felony if the defendant has pled guilty to or been convicted of the crime of incest against the victim; and

(12) Specifies the authorized penalty for sexual trafficking of a child is life imprisonment without eligibility for probation or parole until the defendant has served at least 25 years of the sentence if the defendant has pled guilty to or been convicted of the crime of incest against the victim.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Public Safety
Office of the State Courts Administrator
Office of Prosecution Services
Office of the State Public Defender
Department of Corrections



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Acting Director
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